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18 Attorneys for Defendant  
19 ATN HOLDINGS, INC., f/k/a Attune Foods, Inc.

20 UNITED STATES DISTRICT COURT  
21 NORTHERN DISTRICT OF CALIFORNIA  
22 OAKLAND DIVISION

23 MARY SWEARINGEN and ROBERT FIGY,  
individually and on behalf of all others  
24 similarly situated,

25 Plaintiffs,

26 v.

27 ATTUNE FOODS, INC.,

Defendant.

28 Case No.: 4:13-cv-04541 SBA

STIPULATION AND ORDER  
CONTINUING CASE MANAGEMENT  
CONFERENCE AND RELATED  
DATES

1 Plaintiffs Mary Swearingen and Robert Figy (“Plaintiffs”) and Defendant ATN Holdings,  
2 Inc. (formerly known as Attune Foods, Inc.) (“Defendant”), through their respective attorneys of  
3 record herein (collectively, “Parties”), without waiving any rights, claims, or defenses they may  
4 have in this action, hereby stipulate and agree as follows:

5 WHEREAS, the Order Setting Initial Case Management Conference and ADR Deadlines  
6 (Doc. # 4) orders that the Parties meet and confer re: initial disclosures, early settlement, ADR  
7 process selection, and discovery plan; file ADR Certification signed by Parties and Counsel; and  
8 file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference by December  
9 17, 2013;

10 WHEREAS, the Order Setting Initial Case Management Conference and ADR Deadlines  
11 (Doc. # 4) orders that the Parties file a Rule 26(f) Report, complete initial disclosures or state  
12 objection in Rule 26(f) Report by December 31, 2013;

13 WHEREAS, the Initial Case Management Conference is currently scheduled for Thursday,  
14 January 9, 2014 at 2:30 p.m. via telephone (Doc. #10);

15 WHEREAS, counsel for Defendant intends to file a potentially dispositive motion to  
16 dismiss, currently due on January 15, 2014 (Doc. #12);

17 WHEREAS, counsel for the Parties agree that the resources of the Court and the Parties  
18 would be conserved if the date for the Initial Case Management Conference were vacated pending  
19 briefing and the Court’s ruling on Defendant’s motion to dismiss, and if the Initial Case  
20 Management Conference and all dates in the Order Setting Initial Case Management Conference  
21 and ADR Deadlines were vacated, all to be rescheduled pursuant to a new scheduling order to be  
22 issued after the Court’s ruling on Defendant’s motion to dismiss, if necessary;

23 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED between the Parties,  
24 and subject to the Court’s approval, that the Parties respectfully request that the date for the Initial  
25 Case Management Conference be vacated and that the Initial Case Management Conference and all  
26 other dates in the Order Setting Initial Case Management Conference and ADR Deadlines be  
27 vacated, all to be rescheduled pursuant to a new scheduling order to be issued after the Court’s  
28 ruling on Defendant’s motion to dismiss, if necessary.

1 **IT IS SO STIPULATED.**

2 Dated: December 17, 2013.

ARNOLD & PORTER LLP

3 By: /s/ Angel A. Garganta

4 Angel A. Garganta  
Attorneys for Defendant ATN Holdings,  
Inc., f/k/a Attune Foods, Inc.

5 Dated: December 17, 2013.

PRATT & ASSOCIATES

6 By: /s/ Ben F. Pierce Gore

7 Ben F. Pierce Gore

8 Colin H. Dunn  
9 CLIFFORD LAW OFFICES  
10 Attorneys for Plaintiffs  
Mary Swearingen and Robert Figy

11 PURSUANT TO THE STIPULATION, IT IS SO ORDERED **except that a telephonic case**  
**management conference will be held on April 9, 2014, at 2:30 p.m., in Courtroom 1, 4th Floor,**  
**1301 Clay Street, Oakland, CA 94612. The parties shall meet and confer prior to the conference**  
**and shall prepare a joint Case Management Conference Statement which shall be filed no later**  
**than seven (7) days prior to the Case Management Conference that complies with the Standing**  
**Order For All Judges Of The Northern District Of California and the Standing Order of this**  
**Court. Plaintiffs shall be responsible for filing the statement as well as for arranging the**  
**conference call. All parties shall be on the line and shall call (510) 637-3559 at the above**  
**indicated date and time.**

12  
13 Dated: 12/18/2013

  
Honorable Saundra Brown Armstrong  
United States District Court Judge

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- 2 -

**ATTESTATION UNDER LOCAL RULE 5-1(i)(3)**

I, Angel Garganta, am the ECF User whose ID and password are being used to file this  
**STIPULATION AND [PROPOSED] ORDER CONTINUING CASE MANAGEMENT**  
**CONFERENCE AND RELATED DATES.** In compliance with Local Rule 5-1(i)(3), I hereby  
attest that Plaintiffs' counsel has concurred in this filing.

/s/ Angel A. Garganta  
ANGEL A. GARGANTA